

REMARKS / ARGUMENTS

Claims 1-26 and 35-46 are pending in the present application. Claims 1, 14 and 35 are independent.

Claims 1-26 and 35-46 were rejected as being unpatentable over Taylor (U.S. Patent No. 6,254,642) in view of Hasson (U.S Patent No. 5,658,272).

Discussion

Applicant submits that amended independent claim 1 is allowable over Taylor in view of Hasson since the Taylor and Hasson do not disclose or suggest an expandable structure which is placeable in a stomach to occupy a portion of the stomach and "a fastener that secures an annular fold of the stomach adjacent the expanded expandable structure to maintain the gastric reduction pouch, the fastener being positioned distal to the expandable structure when the fastener is initially secured to the annular fold of the stomach." In the Office Action it is asserted that it would have been obvious to combine the expandable structure 34 (Fig. 7) of Hasson with Taylor to render claim 1 obvious. Applicant respectfully disagrees for the following reasons.

The expandable structure 34 of Hasson is intended to prevent premature withdrawal of the device and, to this end, the expandable structure 34 is placed at the distal end of the device. As such, Applicant submits that Hasson teaches to provide the balloon at the distal end of the device. When applying such a feature to Taylor, Applicant submits that the fastener of Taylor would be proximal to the expandable structure since Taylor teaches to apply the expandable structure 34 at the distal end. Claim 1, on the other hand, recites that the fastener is positioned distal to the expandable structure when the fastener is initially secured to the annular fold of the stomach " which Applicant submits would not have been obvious in light of Taylor and Hasson.

Applicant submits that independent claims 14 and 35 are allowable for essentially the same reason that claim 1 is allowable, namely, that Taylor and Hasson do not disclose or suggest " the fastener being positioned distal to the expandable structure when the fastener is initially secured to maintain the gastric reduction pouch" (claim 14) and "the fastener being positioned distal to the expandable structure when the fastener is initially secured to the annular fold of the stomach" (claim35).

Dependent claims 2-13, 15-26 and 36-46 are allowable since they depend from allowable independent claims 1, 14 and 35 and because they recite independently patentable features.

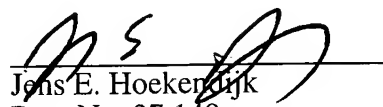
CONCLUSION

Applicant submits that all claims are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-412-3322.

Respectfully submitted,

October 22, 2008
Date


Jens E. Hoekendijk
Reg. No. 37,149

Jens E. Hoekendijk
P.O. Box 4787
Burlingame, CA 94011-4787
Tel.: 415-412-3322